

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 18, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 558

Introduced by Assembly Member Feuer
(Principal coauthors: Assembly Members Hernandez and Huffman)

February 21, 2007

An act to add Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to toxic chemicals.

LEGISLATIVE COUNSEL'S DIGEST

AB 558, as amended, Feuer. Toxic chemicals: use reduction.

(1) Existing law authorizes the California Environmental Protection Agency (Cal-EPA) to request any business to submit the information required to be submitted in the toxic chemical release form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Existing law prohibits the Cal-EPA from requiring the form from certain businesses or in an amount lower than the applicable threshold amount specified in EPCRA.

The act would require the department to adopt a list of toxic or hazardous substances, based on specified state and federal listings, and to adopt, and annually revise, a high priority toxics list consisting of no fewer than 50 of the chemicals identified in the toxic or hazardous substance list and to prioritize that list, as specified.

The act would require each large quantity toxics user, as defined, to provide an annual report to the department for each toxic or hazardous

substance manufactured, processed, or otherwise used at a facility, in amounts equal to, or exceeding, specified threshold amounts. By July 1, 2010, a large quantity toxics user would also be required to prepare and complete a toxics use reduction plan for each facility for which the toxic user is required to file a report for the previous calendar year. The large quantity toxics user would be required to keep the toxic use reduction plan on the premises of the facility, to make the plan available to the department upon request, and to update the toxics use reduction plan no less than once every 2 years.

The act would require the department, by October 1, 2008, to prepare and distribute a survey to each business, in certain industries, that would require the business to provide information regarding each facility it owns or operates in the state, the full-time equivalent number of employees at that facility, and whether a listed substance is manufactured, processed, or otherwise used in a facility. A business would be required, by March 1, 2009, to complete the survey and return it to the department, accompanied by a specified fee. The business would be required to certify the completeness and accuracy of the returned survey under penalty of perjury, thereby imposing a state-mandated local program by creating a new crime.

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The department would be required, by July 1, 2009, to determine the total mass of toxic and hazardous substances used in the state in the year 2008 and to adopt and approve, in a public hearing, a statewide toxic and hazardous substance baseline. The department would be required, by January 1, 2011, to adopt regulations to require a toxic user to implement toxic use reduction measures to achieve the maximum technologically feasible and cost-effective reductions in the use of toxic or hazardous substances, to achieve the goal of reducing the statewide

~~toxic and hazardous substance baseline by 25%, by January 1, 2015, and by 50%, by January 1, 2020.~~

~~The act would create, in the General Fund State Treasury, the Toxics Use Reduction Account Fund, which the department would be authorized to expend, upon appropriation by the Legislature. The department would be required to adopt, by January 1, 2010, regulations to impose a toxics use reporting fee on a large quantity toxics user who uses a specified-listed toxic or hazardous substance, based on the toxicity and potential harm of that toxic or hazardous substance to humans and the environment. The act would require the fees collected to be deposited in a separate subaccount for each hazardous or toxic substance for which the fee is imposed and the department would be authorized to expend the fees deposited in a subaccount for funding technical assistance and research efforts to mitigate the harm caused by that hazardous or toxic substance for which the subaccount is established and providing alternatives to the use of that substance. The department would be required to set the amount of the fee based upon the reasonable cost of funding the administrative costs associated with the collection of toxics use data in the annual reports and evaluating the completeness, efficiency, and sufficiency of the toxics use reduction plans. The reporting fee could be expended only for those administrative costs and activities. A large toxics user who receives a notice from the department to pay a toxic use reporting fee would be required to remit the fee to the department within 90 days of receipt of the notice.~~

~~The bill would also require the department to establish a survey fee to be paid by a business required to submit a survey to the department. The fees could be expended only to review and analyze those surveys.~~

~~The act would create, in the State Treasury, the High Priority Toxics Technical Assistance and Research Fund, that the department would be authorized upon appropriation by the Legislature to expend only to provide technical assistance to, and research for, high priority toxics use reduction. The bill would require the department, by January 1, 2010, to adopt regulations to impose a high priority toxics use fee on high priority toxics users, based upon the reasonable cost of funding the technical assistance and research associated with assisting high priority toxics users to implement toxics use reduction strategies.~~

~~The act would require the department to provide technical assistance to high priority toxics users in implementing effective toxics use reduction, and in complying with the requirements of the act and to adopt regulations to implement the act this assistance.~~

The department would be required to establish a fee schedule specifying the amount of the fees authorized to be imposed ~~by the to~~ *provide services under the act* and would require the department to deposit ~~all those~~ fees collected in the Toxics Use Reduction ~~Account~~ *Fund*, for expenditure by the department, upon appropriation by the Legislature, to ~~implement the act~~ *only provide those services*.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 5 (commencing with Section 25547) is
2 added to Chapter 6.95 of Division 20 of the Health and Safety
3 Code, to read:

4
5 Article 5. California Toxics Use Reduction Act
6

7 25547. This article shall be known and may be cited as the
8 California Toxics Use Reduction Act.

9 25547.1. The Legislature finds and declares all of the following:
10 (a) Toxic chemicals are inherently dangerous to the health and
11 well-being of all Californians.

12 (b) Toxic chemicals entering the environment from chemical
13 releases and leaching from discarded products harm the California
14 environment and diminish productive economic sectors such as
15 agriculture and tourism.

16 (c) The Environmental Protection Agency estimates that 600
17 new hazardous waste sites will be added each month to the existing
18 77,000 sites between now and 2033.

19 (d) Among children, chemical exposures are estimated to
20 contribute to 100 percent of lead poisoning cases, 10 percent to
21 35 percent of asthma cases, 2 percent to 10 percent of certain
22 cancers, and 5 percent to 20 percent of behavioral disorders.

1 (e) Many toxic chemicals accumulate in the tissues of humans
2 and other organisms, putting them at risk of the adverse effects of
3 chronic, long-term exposure such as cancer and reproductive
4 problems.

5 (f) The toxics use fee established by this article would not result
6 in the imposition of a tax within the meaning of Article XIII A of
7 the California Constitution because the amount and nature of that
8 fee has a fair and reasonable relationship to the adverse
9 environmental burdens imposed by the use of a toxic or hazardous
10 substance in this state and there is a sufficient nexus between the
11 toxic use fee imposed by this article and the use of that fee to
12 support research into mitigating the harmful effects of, and finding
13 alternatives to, that toxic or hazardous substance.

14 *25547.1.1. It is the intent of the Legislature that the state's*
15 *chemicals policies avoid duplicative reporting requirements*
16 *relating to toxic chemicals and, wherever possible, enact*
17 *meaningful changes to streamline these requirements without*
18 *compromising the integrity and value of the data provided in those*
19 *reports.*

20 25547.2. For the purposes of this division, the following terms
21 have the following meanings:

22 (a) "Byproduct" means nonproduct outputs of a toxic or
23 hazardous substance generated by a production unit, before
24 handling, transfer, treatment or release. An otherwise used
25 substance is a byproduct when the substance leave a production
26 unit.

27 (b) "CERCLA" means the Comprehensive Environmental
28 Response, Compensation, and Liability Act of 1980 (42 U.S.C.
29 Sec. 9601 et seq.).

30 (c) "Department" means the Department of Toxic Substances
31 Control.

32 (d) "Emission" means a release of a toxic or hazardous substance
33 to the environment or a transfer of a toxic or hazardous substance
34 in waste to an offsite location.

35 (e) "EPCRA" means the Emergency Planning and Community
36 Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.).

37 (f) "Facility" means all buildings, equipment, structures, and
38 other stationary items that are located on a single site or on
39 contiguous or adjacent sites and that are owned or operated by the

1 same person, or by any person who controls, is controlled by, or
2 is under common control with, that person.

3 (g) “Intermediate product” means either of the following:

4 (1) In chemical manufacturing, a chemical substance, excluding
5 a nonisolated intermediate, that is either of the following:

6 (A) Consumed, in whole or in part, in chemical reactions used
7 for the intentional manufacture of another chemical substance or
8 mixture.

9 (B) Is intentionally present for the purpose of altering the rate
10 of chemical reactions.

11 (2) Except as provided in paragraph (2), a manufactured
12 substance, compound, or product, excluding a nonisolated
13 intermediate, that is any of the following:

14 (A) Consumed, in whole or in part, in a chemical or physical
15 process for the intentional manufacture of another product.

16 (B) Becomes a component part of another product.

17 (C) Is intentionally present for the purpose of aiding the
18 manufacture of another product.

19 (h) “*High priority toxic substance*” means a toxic or hazardous
20 substance that is identified on the high priority toxics list
21 established pursuant to Section 25547.3.1.

22 (i) “*High priority toxics list*” means the list of high priority
23 toxic or hazardous substances established pursuant to Section
24 25547.3.1.

25 (j) “*High priority toxics user*” means a toxics user who
26 manufactures, processes, or otherwise uses a high priority toxic
27 substance in an amount that is the same as, or greater than, the
28 applicable threshold amount specified in Section 25547.4 in a
29 calendar year at a facility.

30 ~~(h)~~

31 (k) “Large quantity toxic user” means a toxics user who
32 manufactures, processes, or otherwise uses a toxic or hazardous
33 substance in an amount that is the same as, or greater than, the
34 applicable threshold amount in a calendar year at a facility.

35 ~~(i)~~

36 (l) “Manufacture” means to produce, prepare, import, or
37 compound a toxic or hazardous substance, including, but not
38 limited to, producing a toxic or hazardous substance coincidentally
39 during the manufacture, processing, use, or disposal of another
40 substance or mixture of substances, including a toxic or hazardous

1 substance that is separated from the other substance or mixture of
2 substances as a byproduct, and a toxic or hazardous substance that
3 remains in that other substance or mixture of substances as an
4 impurity.

5 ~~(j)~~

6 (m) "Mixture" means a combination of two or more chemicals,
7 if the combination is not, in whole or in part, the result of a
8 chemical reaction. Mixture includes both of the following:

9 (1) A combination that is produced by a chemical reaction but
10 could have been produced without a chemical reaction.

11 (2) A combination that consists of a chemical and associated
12 impurities.

13 ~~(k)~~

14 (n) "Multimedia" means having to do with all environmental
15 media including, but not limited to, water, land, air, and workplaces
16 within facilities.

17 ~~(t)~~

18 (o) "Nonisolated intermediate" means an intermediate that is
19 not intentionally removed from the equipment in which it is
20 manufactured, excluding a tank or other vessel or equipment in
21 which the substance or product is stored after manufacture, but
22 including any of the following:

23 (1) A reaction vessel in which it is manufactured.

24 (2) Equipment that is ancillary to the reaction vessel or similar
25 equipment.

26 (3) Equipment through which the intermediate passes during a
27 continuous flow process.

28 ~~(m)~~

29 (p) "Person" means an individual, trust, firm, joint stock
30 company, corporation, partnership, or association engaged in
31 business or in providing services, but does not include the state,
32 and any district, city, county, or political subdivision of the state.

33 ~~(n)~~

34 (q) "Process" means the preparation of a toxic or hazardous
35 substance, after its manufacture, for distribution in commerce
36 under either of the following conditions:

37 (1) In the same form or physical state as, or in a different form
38 or physical state from, that in which it was received by the toxics
39 user so preparing that substance.

- 1 (2) As part of an article containing the toxic or hazardous
2 substance.
- 3 ~~(o)~~
- 4 (r) “Product” means a product, a family of products, an
5 intermediate product, a family of intermediate products, or a
6 desired result or a family of results.
- 7 ~~(p)~~
- 8 (s) “Production unit” means a process, line, method, activity,
9 or technique, or a combination or series thereof, used to produce
10 a product.
- 11 ~~(q)~~
- 12 (t) “Section 313 of EPCRA” means Section 11023 of Title 42
13 of the United States Code.
- 14 ~~(r)~~
- 15 (u) “Sections 101(14) and 102 of CERCLA” means Sections
16 9606 (14) and 9602 of Title 42 of the United States Code.
- 17 ~~(s)~~
- 18 (v) “SIC code” means the identification code assigned to a
19 facility by the United States Department of Commerce.
- 20 ~~(t)~~
- 21 (w) “Small quantity toxics user” means a toxics user who is not
22 a large quantity toxics user.
- 23 ~~(u)~~
- 24 (x) “Threshold amounts” means a threshold for an amount of a
25 toxic or hazardous substance, as established in Section 25547.4.
- 26 ~~(v)~~
- 27 (y) “Toxics user” means a person who owns or operates a facility
28 that manufactures, processes or otherwise uses a toxic or hazardous
29 substance and the facility is classified in SIC codes 10 to 14,
30 inclusive, 20 to 40, inclusive, 44 to 51, inclusive, 72, 73, 75, or
31 76, or the corresponding NAICS code.
- 32 ~~(w)~~
- 33 (z) “Toxic” means toxic or hazardous.
- 34 ~~(x)~~
- 35 (aa) (1) “Toxic or hazardous substance” means a substance in
36 a gaseous, liquid, solid, or other form that is identified on the toxic
37 or hazardous substance list established pursuant to Section 25547.3.
- 38 (2) “Toxic or hazardous substance” does not include a substance
39 that meets any of the following conditions:
- 40 (A) Included in an article.

1 (B) Used as a structural component of a facility.

2 (C) Present in a product used for routine janitorial or facility
3 grounds maintenance.

4 (D) Present in foods, drugs, cosmetics, or other personal items
5 used by employees or other persons at a facility.

6 (E) Present in a product used for the purpose of maintaining
7 motor vehicles operated by a facility.

8 (F) Present in process water or noncontact cooling water as
9 drawn from the environment or from municipal sources, or present
10 in air used either as compressed air or as part of combustion.

11 (G) Present in a pesticide or herbicide when used in agricultural
12 applications.

13 (H) Present in crude, lubricating, or fuel oils or other petroleum
14 materials being held for direct wholesale or retail sale.

15 (I) Present in crude or fuel oils used in combustion to produce
16 electricity, steam, or heat, except when production of electricity,
17 steam, or heat is the primary business of a facility.

18 ~~(y)~~

19 *(ab)* “Toxic or hazardous substance list” means the list of toxic
20 or hazardous substances established pursuant to Section 25547.3.

21 ~~(z)~~

22 *(ac)* “Toxic and hazardous substance baseline” means the total
23 mass of toxic and hazardous substances used in the calendar year
24 commencing on January 1, 2008, as established pursuant to Section
25 25547.9.

26 ~~(aa)~~

27 *(ad)* “Toxics” means toxic or hazardous substances.

28 ~~(bb)~~

29 *(ae)* (1) “Toxics use reduction” means in-plant changes in
30 production processes or raw materials that reduce, avoid, or
31 eliminate the use of toxic or hazardous substances or generation
32 of hazardous byproducts per unit of product, so as to reduce the
33 risks to the health of workers, consumers, or the environment,
34 without shifting risks between workers, consumers, or parts of the
35 environment.

36 (2) “Toxics use reduction” does not include, require, or promote
37 incineration, transfer from one medium of release or discharge to
38 other media, offsite or out-of-production unit waste recycling, or
39 such methods as the end-of-pipe treatment of toxic or hazardous
40 substances as waste.

1 (ee)

2 (af) “Use” includes, but is not limited to, generating, packaging,
3 treating, storing, emitting, discharging, or disposing of a toxic or
4 hazardous substance.

5 25547.3. (a) The department shall adopt a toxic or hazardous
6 substance list pursuant to this section consisting of the chemicals
7 identified on the Toxic Chemical List established pursuant to
8 Section 313 of EPCRA and the substances identified pursuant to
9 Sections 101(14) and 102 of CERCLA.

10 (1) The department shall annually revise the toxic or hazardous
11 substance list adopted pursuant to this section to add substances
12 consistent with changes in the Toxic Chemical List established
13 pursuant to Section 313 of EPCRA. The department may annually
14 revise the toxic or hazardous substance list to delete substances
15 consistent with changes in that list.

16 (2) The department shall annually revise the toxic or hazardous
17 substance list to add substances consistent with changes in the
18 substances identified pursuant to Sections 101(14) and 102 of
19 CERCLA. The department may annually revise the toxic or
20 hazardous substance list to delete substances consistent with any
21 changes in those identified substances.

22 (b) In addition to the substances specified in subdivision (a),
23 the department may also add or delete any additional substance
24 from the toxic or hazardous substance list. The department shall
25 not add more than 10 substances in a calendar year to the list, and
26 shall not delete more than 10 substances from the list in a calendar
27 year.

28 (1) The department shall provide recommendations proposing
29 the additions or deletions made pursuant to this subdivision.

30 (2) A proposed change in the toxic or hazardous substance list
31 made pursuant to this subdivision shall not take effect until the
32 calendar year immediately following the year in which the
33 department makes the change.

34 (3) A substance added or deleted by the department pursuant
35 to this subdivision is not subject to the requirements of subdivision
36 (a).

37 25547.3.1. (a) *The department shall adopt a high priority*
38 *toxics list consisting of no fewer than 50 of the chemicals identified*
39 *in the toxic or hazardous substance list adopted pursuant to Section*

1 25547.3 and prioritized by all of the following properties of that
2 substance:

3 (1) High production volume in commerce.

4 (2) Level of toxicity.

5 (3) Risk of human or environmental exposure.

6 (4) Disproportionate impact on low-income communities.

7 (b) The department shall annually revise the high priority toxics
8 list according to the following criteria:

9 (1) The department may delete a toxic or hazardous substance
10 from the high priority toxics list to reflect significant progress in
11 statewide reduction in the use of that substance.

12 (2) The department may add a toxic or hazardous substance to
13 the high priority toxic list which the department determines to be
14 of the next highest priority, using the factors specified in
15 subdivision (a), to replace a deleted toxic or hazardous substance.

16 25547.4. For purposes of this article, the threshold amounts of
17 a toxic or hazardous substance shall be in the following amounts:

18 (a) For a toxics user that manufactures or processes a toxic or
19 hazardous substance, the threshold amount for a toxic or hazardous
20 substance shall be 25,000 pounds each year at any one facility.

21 (b) For a toxics user that otherwise uses a toxic or hazardous
22 substance, the threshold amount for a toxic or hazardous substance
23 shall be 10,000 pounds each year at any one facility.

24 (c) If the administrator of the United States Environmental
25 Protection Agency sets a threshold quantity for facility reporting
26 for a toxic or hazardous substance subject to Section 313 of
27 EPCRA that is lower than a corresponding threshold amount
28 specified in subdivision (a) or (b), the corresponding threshold for
29 that substance under this section shall be the same as the federal
30 threshold.

31 25547.5. (a) Each large quantity toxics user shall provide an
32 annual report to the department for each toxic or hazardous
33 substance manufactured, processed, or otherwise used at each
34 facility owned or operated by the large quantity toxics user, in
35 amounts equal to, or exceeding, the applicable threshold amounts,
36 in the following manner:

37 (1) The reporting shall be expressed in terms of the mass of
38 each toxic or hazardous substance manufactured, processed, or
39 otherwise used.

(2) In reporting on each toxic or hazardous substance, the large quantity toxics user shall report the total mass of the substance, whether in pure form or contained in a mixture, subject to the establishment of de minimis levels of chemicals in a mixture, as provided in the regulations adopted by the department pursuant to Section 25547.13.

(3) The report shall contain data accounting for toxic or hazardous substances manufactured, processed, or otherwise used during the preceding calendar year.

(4) The report shall use reporting forms required by the regulations adopted pursuant to Section 313 of EPCRA. To the extent that information required by this section is not included in the form, that information shall be submitted on supplemental forms established by the department.

(b) Each report required by this section shall contain all of the following facility information:

(1) The information required to be submitted under the regulations adopted pursuant to Section 313 of EPCRA.

(2) The quantity of each toxic or hazardous substance at the facility that is any of the following:

(A) Manufactured.

(B) Processed.

(C) Otherwise used.

(D) Generated as byproduct prior to any handling, transfer, treatment, or release.

(E) Shipped as, a product, or in a product, from the facility.

(3) For each production unit at the large quantity toxics user's facility in which a toxic or hazardous substance is manufactured, processed, or otherwise used, all of the following information:

(A) The information necessary to identify the large quantity toxics user, the facility, the production unit, and the toxic or hazardous substance.

(B) An indication of whether the toxic or hazardous substance was used in the production unit in amounts:

(i) Greater than zero pounds and less than or equal to 5,000 pounds.

(ii) Greater than 5,000 pounds but less than or equal to 10,000 pounds.

(iii) Greater than 10,000 pounds but less than or equal to 100,000 pounds.

1 (iv) Greater than 100,000 pounds but less than or equal to
2 500,000 pounds;

3 (v) Greater than 500,000 pounds.

4 (C) A quantitative or qualitative indication of significant change
5 in toxics use and byproduct generation, compared with the previous
6 reporting year, including toxics use reduction techniques employed.

7 (c) The report shall be accompanied by a fee in the amount
8 determined by the department pursuant to Section 25547.15.

9 (d) For all information submitted under this section, the large
10 quantity toxics user shall maintain at the facility documentation
11 that is necessary to substantiate the information submitted,
12 including, but not limited to, documentation of the quantity of the
13 toxic or hazardous substance used in each production unit and the
14 quantity generated as byproduct by each production unit.

15 (e) All of the following are exempt from the reporting
16 requirements of this section:

17 (1) A facility with fewer than the equivalent of 10 full-time
18 employees.

19 (2) Activities in laboratories, including quality control
20 laboratories, to the extent and in the manner those activities are
21 exempted from reporting in the regulations adopted pursuant to
22 Section 313 of EPCRA.

23 (f) A facility that claims to be exempt pursuant to subdivision
24 (e) shall maintain onsite documentation supporting all exemption
25 claims.

26 (g) In calculating, measuring, or estimating quantities of a toxic
27 or hazardous substance to be reported under this section, a large
28 quantity toxics user shall report with the maximum accuracy that
29 is feasible and practicable and shall report quantities with accuracy
30 to two significant digits.

31 (h) The department shall review each report filed pursuant to
32 this section within 90 days after the report is filed. If the department
33 discovers a deficiency in a report, the department shall allow the
34 large quantity toxics user 90 days from the date of notice of the
35 deficiency to correct the deficiency, unless the department
36 determines that deficiency was intentional.

37 (i) A senior management official shall sign each report certifying
38 its accuracy and completeness.

(j) The department shall make available and, to the extent practicable, shall require reporting and recording of the report data via electronic submittal.

25547.6. (a) (1) On or before July 1, 2010, a large quantity toxics user shall prepare and complete a toxics use reduction plan for each facility for which the toxic user is required to file a report pursuant to Section 25547.5 for the previous calendar year.

(2) On or before January 1, 2009, the department shall adopt regulations that specify the criteria for an acceptable toxic use reduction plan. The regulations shall require the toxics use reduction plan to be achieved through any of the following techniques:

(A) Input substitution, by replacing a toxic or hazardous substance or raw material used in a production unit with a nontoxic or less toxic substance.

(B) Product reformulation, by substituting, for an existing end-product, a new end-product that is nontoxic or less toxic upon use, release, or disposal.

(C) Production unit redesign or modification, by developing and using production units of a different design than those currently used.

(D) Production unit modernization, by upgrading or replacing existing production unit equipment and methods with other equipment and methods based on the same production unit.

(E) Improved operation and maintenance of production unit equipment and methods, by modifying or adding to existing equipment or methods including, but not limited to, those techniques as improved housekeeping practices, system adjustments, product and process inspections, or production unit control equipment or methods.

(F) Recycling, reuse, or extended use of toxics, by using equipment or methods that become an integral part of the production unit of concern, including, but not limited to, filtration and other closed loop methods.

(b) The toxics use reduction plan shall include a statement of a facilitywide management policy regarding toxics use reduction, and a description of the scope and objectives of the plan.

(c) The toxics use reduction plan shall include, for each production unit in which a toxic or hazardous substance is used, all of the following:

1 (1) A comprehensive economic and technical evaluation of
2 appropriate technologies, procedures and training programs for
3 potentially achieving toxics use reduction for each toxic or
4 hazardous substance.

5 (2) An analysis of current and projected toxics use, byproduct
6 generation, and emissions.

7 (3) An evaluation of the types and amounts of toxic or hazardous
8 substances used.

9 (4) An identification of each technology, procedure, or training
10 program to be implemented for the purposes of achieving toxics
11 use reduction, the anticipated costs of implementation of each
12 technology, procedure, or training program, and the anticipated
13 savings expected due to each technology, procedure, or training
14 program.

15 (5) A schedule for implementation of those technologies,
16 procedures, and training programs.

17 25547.7. (a) A large quantity toxics user shall keep the toxic
18 use reduction plan prepared pursuant to Section 25547.6 for a
19 facility on the premises of that facility, and shall make the plan
20 available on to the department upon request.

21 (b) A large quantity toxics user shall update the toxics use
22 reduction plan no less than once every two years, on or before by
23 July 1 of the applicable year.

24 (c) If the department determines a toxics use reduction plan
25 summary is not in compliance with the requirements of this article,
26 the department shall allow the large quantity toxics user 90 days
27 from the date of the notice of the deficiency to correct the
28 deficiency unless the department determines that the deficiency
29 was intentional.

30 25547.8. (a) On or before October 1, 2008, the department
31 shall prepare and distribute a survey to each business that owns or
32 operates a facility that is classified in SIC codes 10 through 14,
33 inclusive, 20 through 40, inclusive, 44 through 51, inclusive, 72,
34 73, 75, and 76. The survey shall require the business to provide
35 all of the following information:

36 (1) The business shall identify, for the calendar year
37 commencing on January 1, 2008, each facility it owns or operates
38 in the state and the full-time equivalent number of employees at
39 that facility.

(2) For each ~~business~~ *substance* identified in the toxic or hazardous substance list established pursuant to Section 25547.3, whether the substance is manufactured, processed or otherwise used in a facility specified in paragraph (1), and if so, whether the quantity of each use is below 10,000 pounds annually, between 10,000 and 25,000 pounds annually, or over 25,000 pounds annually.

(b) On or before March 1, 2009, a business shall complete the survey and return it to the department, accompanied by the fee determined by the department pursuant to ~~Section 25547.16~~ *subdivision (d) of Section 25547.12*. The completeness and accuracy of the returned survey shall be certified as complete under penalty of perjury by the business.

(c) On or before July 1, 2009, the department shall analyze the results of the surveys submitted pursuant to this section and shall use this survey to determine the imposition of the toxics use ~~fees~~ *reporting fee* pursuant to Section 25547.12.

25547.9. On or before July 1, 2009, the department shall, after one or more public workshops, with public notice, and an opportunity for all interested parties to comment, and utilizing the information gathered during the surveys conducted pursuant to Section 25547. 8, do both of the following:

(a) Determine the total mass of toxic and hazardous substances used in the state in the year 2008.

(b) Adopt and approve, in a public hearing, a statewide toxic and hazardous substance baseline, to be used for the purposes of determining the toxics use reduction required pursuant to Section 25547.11.

25547.10. The statewide toxic and hazardous substance baseline established pursuant to Section 25547.9 shall remain in effect unless otherwise amended or repealed.

(b) It is the intent of the Legislature that the statewide toxic and hazardous substance baseline continue in existence and be used to maintain and continue toxics use reduction beyond 2020.

25547.11. ~~(a) On or before January 1, 2011, the department shall adopt regulations to require a toxic user to implement toxic use reduction measures to achieve the maximum technologically feasible and cost-effective reductions in the use of toxic or hazardous substances, in order to meet the following goals:~~

1 ~~(1) On or before January 1, 2015, a total reduction of 25 percent~~
2 ~~in the statewide toxic and hazardous substance baseline.~~

3 ~~(2) On or before January 1, 2020, a total reduction of 50 percent~~
4 ~~in the statewide toxic and hazardous substances baseline. hazardous~~
5 ~~substances.~~

6 25547.12. (a) There is hereby created, in the ~~General Fund,~~
7 ~~State Treasury~~ the Toxics Use Reduction ~~Account~~ *Fund*, which
8 may be expended by the department, upon appropriation by the
9 Legislature, for purposes of this ~~article~~ *section*.

10 (b) On or before January 1, 2010, the department shall adopt
11 regulations to impose a toxics use *reporting* fee on a large quantity
12 toxics user who manufactures, processes, or otherwise uses a
13 ~~specified~~ toxic or hazardous substance listed pursuant to Section
14 25547.3.

15 ~~(1) The department shall determine those toxic or hazardous~~
16 ~~substances for which a fee shall be paid based on the toxicity and~~
17 ~~potential harm of that toxic or hazardous substance to humans and~~
18 ~~the environment.~~

19 ~~(2) The department shall set the amount of the fee upon a large~~
20 ~~quantity toxics user who manufactures, processes, or otherwise~~
21 ~~uses a hazardous or toxic substance based upon the reasonable~~
22 ~~cost of funding the technical assistance and research efforts to~~
23 ~~mitigate the harm caused by that specific hazardous or toxic~~
24 ~~substance and providing alternatives to the use of that substance.~~

25 ~~(c) The fees collected pursuant to this section shall be deposited~~
26 ~~in a separate subaccount for each hazardous or toxic substance for~~
27 ~~which the fee is imposed, which shall be created by the department~~
28 ~~in the Toxics Use Reduction Account.~~

29 ~~(d) The department may expend the fees deposited in a~~
30 ~~subaccount established pursuant to this section for funding~~
31 ~~technical assistance and research efforts to mitigate the harm caused~~
32 ~~by that hazardous or toxic substance for which the subaccount is~~
33 ~~established and providing alternatives to the use of that substance.~~

34 (c) (1) *The department shall set the amount of the reporting*
35 *fee upon a large quantity toxics user who manufactures, processes,*
36 *or otherwise uses a hazardous or toxic substance based upon the*
37 *reasonable cost of funding the administrative costs associated with*
38 *the collection of toxics use data in the annual reports required by*
39 *Section 25547.5 and evaluating the completeness, efficiency, and*
40 *sufficiency of the toxics use reduction plan prepared pursuant to*

1 Section 25547.6. The department shall deposit the fees in the Toxics
2 Use Reduction Fund.

3 (2) The reporting fees may be expended only for the
4 administrative costs associated with the collection of toxics use
5 data in the annual reports required by Section 25547.5 and
6 evaluating the completeness, efficiency, and sufficiency of the
7 toxics use reduction plan prepared pursuant to Section 25547.6.

8 (d) The department shall also establish, by regulation, a survey
9 fee required to be paid by a business submitting a survey pursuant
10 to Section 25547.8. The department shall set the amount of the fee
11 based upon the department's reasonable costs of reviewing and
12 analyzing the survey data. The department shall deposit the fees
13 in the Toxics Use Reduction Fund. The survey fees may be
14 expended only to review and analyze the survey data.

15 ~~(e) A large toxics user who receives a notice from the~~

16 (e) A large quantity toxics user who receives a notice from the
17 department to pay a toxic use reporting fee pursuant to this section
18 shall remit the fee to the department within 90 days of receipt of
19 the notice.

20 25547.12.1. (a) There is hereby created, in the State Treasury,
21 the High Priority Toxics Technical Assistance and Research Fund,
22 that may be expended by the department, upon appropriation by
23 the Legislature, only for purposes of implementing technical
24 assistance and research for high priority toxics use reduction
25 pursuant to Section 25547.13.

26 (b) (1) On or before January 1, 2010, the department shall
27 adopt regulations to impose a high priority toxics use fee on high
28 priority toxics users who manufacture, process, or otherwise use
29 a high priority toxic substance listed pursuant to Section 25547.3.1.

30 (2) The department shall set the amount of the fee based upon
31 the reasonable cost of funding the technical assistance and
32 research associated with assisting high priority toxics users in
33 implementing toxics use reduction strategies, pursuant to Section
34 25547.13.

35 25547.13. (a) The department shall provide to high priority
36 toxics users technical assistance in implementing effective toxics
37 use reduction, and in complying with the requirements of this
38 article and other applicable environmental and health and safety
39 laws.

1 (b) The department shall utilize its expertise in source reduction
2 and knowledge of industrial sectors to assist in implementing *high*
3 *priority* toxics use reduction as the preferred means of achieving
4 compliance with applicable laws and regulations.

5 (c) The department shall promote and disseminate information
6 concerning *high priority* toxics use reduction technologies and
7 practices, including compiling technical documents, guidance and
8 case studies that utilize the results of its technical assistance efforts
9 described in subdivision (a).

10 (d) The department shall promote and fund research or pilot
11 projects to develop and demonstrate innovative technologies for
12 *high priority* toxics use reduction. The department shall negotiate
13 with project partners to establish and maintain public rights to
14 information regarding those technologies.

15 (e) The department shall engage in an outreach program to small
16 businesses that are *high priority* toxics users and are required to
17 submit reports and plans pursuant to this article, including assisting
18 first-time filers with reporting requirements. The department may
19 conduct training and workshops for *high priority* toxics users to
20 assist them in meeting their requirements under this article.

21 (f) The department may develop a business and community
22 recognition program to promote the *high priority* toxics use
23 reduction achievements of the state's industry.

24 (g) *The department shall fund research and development into*
25 *nontoxic alternatives, process changes, or other innovations and*
26 *toxics use reduction strategies to assist high priority toxics users*
27 *to reduce the use of high priority toxic substances.*

28 ~~(g)~~

29 (h) The department shall adopt regulations to implement this
30 ~~article section.~~

31 25547.14. (a) All information and records, in document or
32 electronic format, received by the department in the course of
33 providing technical assistance to a toxics user shall be kept
34 confidential and is not considered to be a public record unless one
35 of the following apply:

36 (1) The toxics user agrees in writing that this information may
37 be made available by the department.

38 (2) The department determines at its discretion, the information
39 pertains to an imminent threat to public health or safety, or to the
40 environment.

1 (3) Disclosure by the department is required by law.

2 (b) The department may, to the extent that it furthers the public
3 interest in disseminating information about toxics use reduction,
4 make general or generic information available to the public, even
5 if it is derived from a toxics user, when it is determined by the
6 department that the information or records are not related to secret
7 processes, methods of manufacture, or production, or that the
8 information or record would not divulge a trade secret.

9 25547.15. (a) The department may establish tuition, or other
10 financial-charges fees for providing services pursuant to this article,
11 and may receive additional funds from grants, gifts, bequests or
12 other contributions, or through contracts.

13 (b) The department shall establish a fee schedule specifying the
14 amount of the fees authorized to be imposed pursuant to this-article
15 section, which shall not exceed the department's reasonable costs
16 of-implementing this article providing those services.

17 (c) The department shall deposit all fees collected pursuant to
18 this-article in the appropriate subaccounts section in the Toxics
19 Use-Reduction Account. The department may expend the fee
20 revenues, upon appropriation by the Legislature, to impend this
21 article. Reduction Fund. The fees collected pursuant to this section
22 may be expended upon appropriation by the Legislature only to
23 provide those services.

24 (d) The department shall not charge a fee for any onsite technical
25 assistance activity or service provided to the business community.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.